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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
ACCESS REFORM TARIFF FILINGS )  
 )

TO: Common Carrier Bureau

**OPPOSITION OF  
CITY OF BROOKINGS MUNICIPAL TELEPHONE DEPARTMENT**

The City of Brookings Municipal Telephone Department (Brookings) opposes the "Petition Of AT&T Corp. On Rate-Of-Return LEC Tariff Filings" which was filed on December 23, 1997.

The AT&T petition asserts that Brookings failed to file "any rate revisions whatsoever" to Brookings Tariff F.C.C. No. 1, to implement the interstate access charge changes required by the Commission (AT&T Petition, p. 4). AT&T requests the Commission to commence an "immediate investigation" into the lawfulness of the current rates of Brookings and others "pursuant to 47 U.S.C. § 208"<sup>1</sup> (Id.).

The AT&T petition should be denied because Brookings made a tariff filing on December 24, 1997, which filing appropriately reduced the Brookings interstate access rates affected by the orders in the Commission's Access Charge Reform Proceeding (CC Docket No. 96-262, et al.).

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<sup>1</sup> Section 208 of the Communications Act establishes procedures for the filing and resolution of formal and informal complaints against carriers. It does not provide for, or apply to, investigations, suspensions or denials of tariff filings.

### **Background**

Brookings is a department of the municipal government of the city of Brookings, South Dakota. It is a subset 3 carrier serving 50,000 or fewer access lines, and qualifies for the optional small company tariff filing method set forth in Section 61.39 of the Rules. Brookings is an average schedule carrier, and a participant in the National Exchange Carrier Association's (NECA's) Carrier Common Line Pool.

Effective July 1, 1993, Brookings left NECA's Traffic Sensitive Pool, and thereafter has maintained its own Tariff F.C.C. No. 1 for interstate traffic sensitive access services. The Brookings tariff incorporates by reference many of the rates, terms and conditions of NECA's Tariff F.C.C. No. 5.

### **Brookings Has Filed Tariff Revisions Implementing The Commission's Access Charge Reform Proceeding**

Upon review of the changes to interstate access charges required by the orders in the Commission's Access Charge Reform Proceeding, Brookings determined that the only changes that it needed to make to its Tariff F.C.C. No. 1 were the reduction of its rates for local switching and for an information surcharge. Because these tariff revisions consisted solely and entirely of rate decreases (with no accompanying text changes), Brookings determined that its tariff filing could and should be made on seven (7) days' notice pursuant to the requirements of Section 204(a)(3) of the Communications Act and Section 61.58(d) of the Commission's Rules.

Brookings subsequently realized that the seven-day notice period would require its tariff filing to be made on Christmas Day (when the Commission's offices were closed) in order to become effective on January 1, 1998, as required. Therefore, on December 19, 1997, Brookings filed Application No. 2 for Special Permission for waiver of Section 61.58(d) of the Commission's Rules in order to file its tariff revisions upon eight (8) days' notice on December 24, 1997. It was granted Special Permission No. 97-372 to make the subject filing on eight days' notice.

On December 24, 1997, Brookings filed Transmittal No. 10 to reduce its local switching and information surcharge rates. On the same date, Brookings mailed its cost support materials to AT&T in compliance with a letter request received from AT&T in early December, 1997.

Brookings notes that it was contacted via telephone by Dianne Lockey of AT&T's LEC Industry Management Group on the morning of Monday, December 22, 1997, regarding its plans to file tariff revisions in response to the Access Charge Reform Proceeding. Brookings informed Ms. Lockey during that call that it would be filing tariff revisions on Wednesday, December 24, 1997, to reduce its affected access charges.


Hence, Brookings has in fact filed rate revisions implementing the changes required by the orders in the Commission's Access Charge Reform Proceeding. Because Brookings has complied fully and promptly with the requirements of Section 61.39 of the Commission's Rules, its reduced access rates must be considered prima facie

reasonable, and its December 24, 1997, tariff filing should not be suspended or rejected absent a substantial showing by AT&T that such rates are unreasonable. Regulation of Small Telephone Companies, 2 FCC Rcd 3811, 3812 (1987).

In light of these facts and premises, AT&T's request for an "immediate investigation" of Brookings' rates should be denied.

Respectfully submitted,  
**CITY OF BROOKINGS**  
**MUNICIPAL TELEPHONE DEPARTMENT**

By:

  
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Date: December 29, 1997

Certificate of Service

I hereby certify that I am an employee with the law firm of Blooston, Mordkofsky, Jackson & Dickens, and that on this 29th day of December, 1997, I caused to be delivered, by hand, a copy of the foregoing **"Opposition of City of Brookings Municipal Telephone Department"** to the following:

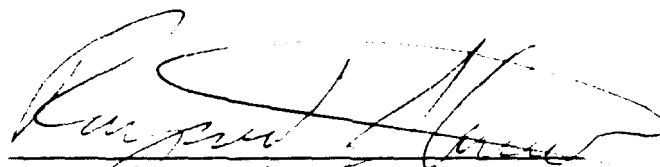
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